

# ELLIS <sup>PC</sup> <sup>SC</sup> LAWHORNE

John J. Pringle, Jr.  
Direct dial: 803/343-1270  
[jpringle@ellislawhorne.com](mailto:jpringle@ellislawhorne.com)

October 2, 2006

**FILED ELECTRONICALLY AND BY FIRST-CLASS MAIL SERVICE**

The Honorable Charles L.A. Terreni  
Chief Clerk  
**South Carolina Public Service Commission**  
Post Office Drawer 11649  
Columbia, South Carolina 29211

RE: Application of NextG Networks of NY, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange and Interexchange Telecommunications Services in the State of South Carolina and For Flexible Regulation  
**Docket No. 2006-\_\_\_\_-C, Our File No. 1219-11391**


Dear Mr. Terreni:

Enclosed is the original and one (1) copy of the **Motion for Protective Treatment and Basis for Filing Exhibit C as Trade Secret** filed on behalf of NextG Networks of NY, Inc. in the above-referenced matter.

Please acknowledge your receipt of this document by file-stamping the copy of this letter enclosed, and returning it in the enclosed envelope.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

  
John J. Pringle, Jr.

JJP/cr

cc: Office of Regulatory Staff Legal Department  
Mr. Robert Delsman  
T. Scott Thompson, Esquire

Enclosures

**THIS DOCUMENT IS AN EXACT DUPLICATE OF THE E-FILED COPY SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH ITS ELECTRONIC FILING INSTRUCTIONS.**

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**In the Matter of the Application of** )  
 )  
**NEXTG NETWORKS OF NY, INC.** )  
 )  
**For a Certificate of Public Convenience and Necessity** )  
**to Provide Resold and Facilities-Based Local Exchange** )  
**and Interexchange Telecommunications Services in the** )  
**State of South Carolina, and for Flexible Regulation** )

**Docket No.** \_\_\_\_\_

**MOTION FOR PROTECTIVE TREATMENT AND  
BASIS FOR FILING EXHIBIT C AS TRADE SECRET**

NextG Networks of NY, Inc., d/b/a/ NextG Networks East, ("NextG" or "Applicant"), by counsel, and pursuant to S.C. Code Ann. § 39-8-10, *et seq.*, S.C. Code Ann. Regs. 103-804(Y)(2), hereby files this Motion for Protective Treatment ("Motion") in the above-captioned proceeding. By this Motion, NextG seeks protective treatment by the South Carolina Public Service Commission ("Commission") of certain commercially-sensitive financial information attached as **Exhibit C**, filed as Trade Secret to NextG's Application for Authority to Provide Resold and Facilities-Based Local Exchange and Interexchange Telecommunications Services. Because this Motion is an inseparable part of NextG's Application, it is being filed concurrently therewith.

In support of this Motion, Applicant provides the following:

In support of its application, NextG respectfully submits as follows:

1. The legal name, address, telephone and fax number of the Applicant are:

NextG Networks of NY, Inc. (d/b/a NextG Networks East)  
2216 O'Toole Ave.  
San Jose, CA, 95131  
Telephone: (408) 954-1580  
Fax: (408) 383-5397

2. All correspondence, notices, inquiries, and other communications regarding this Motion should be addressed to:

John J. Pringle, Jr.  
Ellis, Lawhorne & Sims, P.A.  
P.O. Box 2285  
Columbia SC 29202  
Telephone: (803) 343-1270  
Fax: (803) 799-8479

with copies to:

T. Scott Thompson  
Cole, Raywid & Braverman, LLP  
1919 Pennsylvania Avenue, N.W.  
Suite 200  
Washington, D.C.  
Telephone: (202) 828-9853  
Fax: (202) 458-0067

## **I. Description of Confidential Information**

The Application requires NextG to disclose evidence of its financial ability to provide service by submitting documentation of its financial resources. Pursuant to this requirement, NextG is submitting copies of its audited financial statements. These documents contain highly confidential and strictly proprietary information, the public disclosure of which would result in direct, immediate and substantial harm to NextG's competitive position in South Carolina and in other states where NextG is currently doing business.

## **II. Grounds for Claim of Confidentiality**

The financial information submitted by NextG in **Exhibit C** of its Application fits squarely within the definition of a "trade secret" under the South Carolina Trade Secrets Act.<sup>1</sup> As a privately-held company, NextG's financial qualifications are not readily ascertainable.

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<sup>1</sup> A "trade secret" is defined in S.C. Code § 39-8-20(5)(a) as information that "(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public...and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

NextG currently has no legal obligation to prepare or submit projected financial statements, or to report any financial information to a public entity. Further, the unavailability of this information derives independent economic value for NextG because the disclosure of such information would jeopardize NextG's relationship with its investors and harm NextG's ability to compete in the provision of advanced telecommunications services in South Carolina. NextG is not a public corporation and its financial and business information is uniquely sensitive.

NextG takes considerable efforts to maintain the secrecy of the information contained in its financial statements. Financial information of this type is not publicly disseminated, and NextG takes reasonable steps to guard this information internally as well. Its disclosure is limited to NextG's senior officers, NextG's counsel and employees of the company who are directly involved with NextG's financial operations. Furthermore, when required to submit financial information to public authorities, all such information is clearly stamped "confidential" and is accompanied by formal requests to maintain the confidentiality of the information and to withhold it from public disclosure.

NextG clarifies that its request for protection applies only to the financial information contained in Exhibit C to the Application. NextG is not seeking protection of any type by means of this Motion for those reports NextG will be required to file with the Office of Regulatory Staff ("ORS") should the relief sought in the Application be granted: the Annual Report Form, Gross Receipts Report, or the Universal Service Fund Worksheet.

### **III. Conclusion**

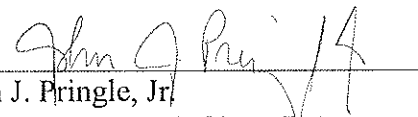
The audited financial information included in support of NextG's Application, for which confidential treatment is requested, is both proprietary and competitively sensitive. NextG would suffer substantial direct harm if such information is made publicly available. The harm

that would result from public disclosure of NextG's financial information is real and not speculative. Moreover, to date, no other jurisdiction has required NextG to make its financial information publicly available. For the foregoing reasons, the financial information included in Exhibit C should be protected from public disclosure by the Commission.

WHEREFORE, NextG respectfully requests that the information contained in Exhibit C of NextG's Application for a Certificate of Public Convenience and Necessity be ruled exempt from public disclosure and provided confidential treatment in accordance with S.C. Code Ann. § 39-8-10, *et seq.*

Respectfully submitted,

NEXTG NETWORKS OF NY, INC.

By:   
John J. Pringle, Jr.  
**Ellis, Lawhorne & Sims, P.A.**  
P.O. Box 2285  
Columbia SC 29202  
(803) 343-1270

T. Scott Thompson  
Jennifer M. Toland  
**Cole, Raywid & Braverman, LLP**  
1919 Pennsylvania Avenue, NW  
Suite 200  
Washington, DC 20006  
(202) 659-9750

October 2, 2006  
Columbia, South Carolina